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United States
Circuit Court of Appeals

For the Ninth Circuit.

JOHN ARTHUR BOYD,

Appellant,

vs.

FINCH R. ARCHER, Warden of the United States
Penitentiary at McNeil Island, Washington,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for
the Western District of Washington,
Southern Division.

Filed

JUN 12 1930

PAUL P. OBRIEN,
CLERK

(10)

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Circuit Court of Appeals
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

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Attorney for the Western District of Washing-
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States District Attorney for the Western Dis-
trict of Washington, Tacoma, Washington,

MALLERY, JOSEPH A., Assistant United States
District Attorney for the Western District of
Washington, Tacoma, Washington,

Attorneys for Respondent (Appellee).

[1*]

In the United States District Court for the West-
ern District of Washington, Southern Divi-
sion.

No. 8140.

In the Matter of the Petition of JOHN ARTHUR
BOYD for a Writ of Habeas Corpus,

*Page-number appearing at the foot of page of original certified
Transcript of Record.

PETITION FOR WRIT OF HABEAS CORPUS.

To the District Court of the United States for the
Western District of Washington, Southern
Division.

Your petitioner, John Arthur Boyd, humbly petitioning the Court, shows:

That he is unjustly and unlawfully detained and imprisoned by one John Finch Archer, keeper or warden of the United States penitentiary at McNeil Island, Washington, and that your petitioner has been restrained of his liberty since the 15th day of March, 1929; that the cause or pretext of such detention is a certain order, sentence and judgment in cause No. 40,011 of this Honorable Court in the Northern Division thereof, a certified copy of said sentence and judgment, together with a certified copy of a certain sentence, judgment and commitment in cause No. 11,630 of this Honorable Court, together with the returns thereon, are attached to this petition and by reference are made a part hereof, together with a certain judgment and commitment in cause No. C.-10,145, entitled United States of America vs. J. A. Boyd, duly and regularly issued and properly certified from the United States District Court for the District of Oregon, which are also by reference made a part of this petition.

That the petitioner states and therefore alleges that by reason of the laws of the United States

this petitioner is entitled to a release of a part of his sentence by reason of his good behavior; that the full time contemplated and allowed by law has [2] fully expired and that by reason of the said laws of the United States this petitioner has served more than thirty days additional and is therefore entitled to his immediate discharge; this petitioner further states that he is advised by his counsel that he is not now detained in custody in the said United States penitentiary by virtue of any sentence or judgment and that he is therefore unlawfully detained by the said warden and also upon advice that by reason of having served the period of time as established by the certified copies of records attached hereto, that the sentence and judgment of the United States District Court for the Western District of Washington has been fully and completely satisfied and discharged and also that the said sentence in cause No. 40,011 is void and unlawful for uncertainty as more fully shown by the certified copies attached hereto and heretofore referred to in this petition.

WHEREFORE your petitioner prays that a writ of habeas corpus be issued by this Honorable Court directed to the said John Finch Archer, warden or keeper of the United States penitentiary as aforesaid, and that the matters and things herein contained be inquired of by this Honorable Court and further directing the said warden or keeper of the penitentiary to bring the body of your petitioner before this Honorable Court upon a day certain and that your petitioner may be discharged

from the said unlawful restraint and detention aforesaid.

JOHN ARTHUR BOYD,
Petitioner.

H. SYLVESTER GARVIN,
FRANK R. JEFFREY,
Attorneys for Petitioner,
955 Dexter Horton Building,
Seattle, Washington. [3]

State of Washington,
County of Pierce,—ss.

John Arthur Boyd, being first duly sworn, on oath says: That he is the person whose name is subscribed to the foregoing petition for a writ of habeas corpus and that he is familiar with the contents of said pleading and that the matters and things therein contained are true in substance and in fact.

JOHN ARTHUR BOYD.

Subscribed and sworn to before me this 16th day of April, 1930.

H. SYLVESTER GARVIN,
Notary Public in and for the State of Washington,
Residing at Seattle.

Received a copy of the within petition this 18 day of April, 1930.

ANTHONY SAVAGE,
Attorney for Respondent. [4]

District Court of the United States, Western District of Washington, Northern Division.

No. 11,630.

UNITED STATES OF AMERICA

vs.

JOHN ARTHUR BOYD.

COMMITMENT.

The President of the United States of America, to the Marshal of the United States for the Western District of Washington, GREETING:

WHEREAS, at the November, 1927, term of said court, held at the courtroom of said court, at the City of Seattle, in said District, to wit, on the 27th day of February, 1928, the said defendant was convicted of the crime of Conspiracy to violate and violation of the National Prohibition Act and violation of Section 593a of Tariff Act of 1922 committed within the jurisdiction of said court, contrary to the form of the statutes of the United States in such case made and provided and against the peace and dignity of the United States;

AND, WHEREAS, on the 27th day of February, 1928, being a day in the said term of said court, the said defendant was, for said crime of which he was convicted as aforesaid, by the judgment of said court ordered to be imprisoned in the United States Penitentiary at McNeil Island, Washington, or in such other prison as may be hereafter provided for the confinement of persons

convicted of offenses against the laws of the United States, for the period of Fifteen Months at hard labor from and after this date, and to pay a fine of One Thousand Dollars, and that execution issue therefor, and that he be further imprisoned at the same place until he shall have paid said fine, or until he shall be discharged by law,—

NOW, THIS IS TO COMMAND YOU, THE SAID MARSHAL, to take [5] and keep and safely deliver the said defendant into the custody of the Keeper or Warden, or other officer in charge of said penitentiary or prison, forthwith.

AND THIS IS TO COMMAND YOU, the said Keeper and Warden and other officers in charge of the said penitentiary or other prison, to receive from the United States Marshal of said Western District of Washington the said defendant, convicted and sentenced as aforesaid, and him the said defendant safely keep until he shall be discharged by law.

WITNESS the Hon. JEREMIAH NETERER, Judge of the said District Court, and the seal thereof, at the City of Seattle, this 7th day of March, 1929.

[Seal]

ED. M. LAKIN,
Clerk.
By S. Cook,
Deputy Clerk.

MARSHAL'S RETURN.

I hereby certify that I received the within Warrant of Commitment on the 7th day of March, 1929, and in obedience thereto on the 15th day of March, 1929, I did commit the within named defendant as herein requested.

E. B. BENN,
United States Marshal.
A. B. MILLER,
Deputy.

(Return filed Mar. 16, 1929.) [6]

In the United States District Court for the Western District of Washington, Northern Division.

No. 11,630.

UNITED STATES OF AMERICA,
Plaintiff,
vs.
JOHN ARTHUR BOYD,
Defendant.

SENTENCE.

Comes now on this 27th day of February, 1928, the said defendant, John Arthur Boyd, into open court for sentence, and being informed by the Court of the charges herein against him and of his conviction of record herein, he is asked whether he has any legal cause to show why sentence should not be passed and judgment had against him, and

he nothing says, save as he before hath said: WHEREFORE, by reason of the law and the premises, it is considered, ordered and adjudged by the Court that the defendant is guilty of violating Sec. 37, Penal Code, conspiracy to violate the Act of October 28, 1919, known as the National Prohibition Act, and Sec. 593 "A" of Tariff Act of 1922, and that he be punished by being imprisoned in the United States Penitentiary at McNeil Island, Pierce County, Washington, or in such other place as may be hereafter provided for the imprisonment of offenders against the laws of the United States, for the term of fifteen (15) months at Hard Labor, and to pay a fine of \$1,000.00. And the said defendant, John Arthur Boyd, is hereby ordered into the custody of the United States Marshal to carry this sentence into execution.

Commitment is stayed for two days to permit preparation of notice of appeal.

Recorded in Judgments and Decrees No. 5, at page 721. [7]

United States of America,
Western District of Washington,—ss.

I, Ed. M. Lakin, Clerk of the District Court of the United States for the Western District of Washington, do hereby certify that I have compared the foregoing copy with the original Sentence and Commitment, in the foregoing entitled cause, now on file and of record in my office at Seattle, and that the same is a true and perfect transcript of said original and of the whole thereof.

WITNESS my hand and the seal of said court
this 18th day of March, 1930.

[Seal]

ED. M. LAKIN,
Clerk.

By S. M. H. Cook,
Deputy. [8]

MARSHAL'S RETURN ON COMMITMENT.

Cause No. 11,630.

UNITED STATES OF AMERICA

vs.

JOHN ARTHUR BOYD.

I hereby certify that I received the within War-
rant of Commitment on the 7th day of March, 1929,
and in obedience thereto on the 15th day of March,
1929, I did commit the within named defendant as
herein requested.

E. B. BENN,
United States Marshal.
By A. B. MILLER,
Deputy.

MARSHAL'S RETURN ON COMMITMENT,

Cause No. 40,011.

UNITED STATES OF AMERICA

vs.

JOHN ARTHUR BOYD.

I hereby certify that I received the within War-
rant of Commitment on the 15th day of March,

1929, and in obedience thereto on the 15th day of March, 1929, I did commit the within named defendant as herein requested.

ED. B. BENN,
United States Marshal.
By A. B. MILLER,
Deputy. [9]

In the United States District Court for the Western District of Washington, Northern Division.

No. 40,011.

UNITED STATES OF AMERICA,
Plaintiff,
vs.
JOHN ARTHUR BOYD,
Defendant.

SENTENCE.

Comes now on this 15th day of March, 1929, the said defendant, John Arthur Boyd, into open court for sentence, and being informed by the Court of the charges herein against him and of his conviction of record herein, he is asked whether he has any legal cause to show why sentence should not be passed and judgment had against him and he nothing says, save as he before hath said: WHEREFORE, by reason of the law and the premises, it is considered, ordered and adjudged by the Court that the defendant is guilty of conspiring to commit certain offenses against the United States and of

receiving, buying, and concealing certain intoxicating liquors, in violation of Section 37, Penal Code, conspiracy to violate the Act of October 28, 1919, known as the National Prohibition Act; and conspiring to violate the Act of September 21, 1922, known as the Tariff Act, and violation of Section 593 of the Tariff Act of 1922, and that he be punished by being imprisoned in the United States Penitentiary at McNeil Island, Pierce County, Washington, or in such other place as may be hereafter provided for the imprisonment of offenders against the laws of the United States, for the term of fifteen (15) months at hard labor, said term of imprisonment to run consecutively and not concurrently with and in addition to the sentence heretofore imposed in a former cause. And the said defendant, John Arthur Boyd, is hereby ordered into the custody of the United States Marshal to carry this sentence into execution.

Recorded in Judgment and Decrees No. 6, at page 152. [10]

United States of America,
Western District of Washington.

I, Ed. M. Lakin, Clerk of the District Court of the United States for the Western District of Washington, do hereby certify that I have compared the foregoing copy with the original Marshal's Returns on Commitments, and Sentence in the foregoing entitled cause, now on file and of record in my office at Seattle, and that the same is

a true and perfect transcript of said original and of the whole thereof.

WITNESS my hand and the seal of said court this 15th day of April, 19230.

[Seal]

ED. M. LAKIN,
Clerk.

By S. Cook,
Deputy. [11]

District Court of the United States, Western District of Washington, Northern Division.

No. 40,011.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN ARTHUR BOYD,

Defendant.

COMMITMENT.

The President of the United States of America, to the Marshal of the United States for the Western District of Washington, GREETING:

WHEREAS, at the November, 1928, term of said court, held at the courtroom of said court at the City of Seattle, in said District, to wit, on the 12th day of March, 1929, the said defendants was convicted of the crime of Violation, Sec. 37 P. C., Consp. to vio. Act of Oct. 28, 1919, known as Nat. Prohibition Act, and Consp. to violate Act of Sept. 21, 1922, known as the Tariff Act and vio. sec.

593 of Tariff Act of 1922, committed within the jurisdiction of said court, contrary to the form of the statutes of the United States in such case made and provided and against the peace and dignity of the United States;

AND WHEREAS, on the 15th day of March, 1929, being a day in the said term of said court, the said defendant was, for said crime of which he was convicted as aforesaid by the judgment of said court, ordered to be imprisoned in the United States Penitentiary at McNeil Island, Washington, or in such other prison as may be hereafter provided for the confinement of persons convicted of offenses against the laws of the United States, for the period of Fifteen Months, to run consecutively with and in addition to sentence imposed in cause No. 11,630, at hard labor, from and after this date, or until he shall be discharged by law,— [12]

NOW, THIS IS TO COMMAND YOU, THE SAID MARSHAL, to take and keep and safely deliver the said defendant into the custody of the Keeper or Warden, or other officer in charge of said penitentiary or prison, forthwith.

AND THIS IS TO COMMAND YOU, the said Keeper and Warden and other officers in charge of the said penitentiary or other prison, to receive from the United States Marshal of said Western District of Washington the said defendant, convicted and sentenced as aforesaid, and him the said defendant safely keep until he shall be discharged by law.

WITNESS the Hon. J. STANLEY WEBSTER, Judge of the said District Court, and the seal thereof, at the City of Seattle, this 15th day of March, 1929.

[Seal]

ED. M. LAKIN,
Clerk.

By S. Cook,
Deputy Clerk.

MARSHAL'S RETURN.

I hereby certify that I received the within Warrant of Commitment on the 15th day of March, 1929, and in obedience thereto on the 15th day of March, 1929, I did commit the within named defendant as herein requested.

E. B. BENN,
United States Marshal.
By A. B. MILLER,
Deputy.

(Return filed March 16, 1929.) [13]

United States of America,
Western District of Washington,—ss.

I, Ed. M. Lakin, Clerk of the District Court of the United States for the Western District of Washington, do hereby certify that I have compared the foregoing copy with the original Sentence and Commitment in the foregoing entitled cause, now on file and of record in my office at Seattle, and that the same is a true and perfect transcript of said original and of the whole thereof.

WITNESS my hand and the seal of said court this 18th day of March, 1923.

ED. M. LAKIN,
Clerk.

By S. M. H. Cook,
Deputy. [14]

In the District Court of the United States, for the
District of Oregon.

BE IT REMEMBERED, That on Monday, the 11th day of June, 1923, the same being the 82d judicial day of the Regular March Term of said court, the following proceedings, among others, were had before the Honorable ROBERT S. BEAN, United States District Judge for said District, to wit: [15]

In the District Court of the United States for the
District of Oregon.

No. C.—10,145.

June 11, 1923.

THE UNITED STATES OF AMERICA

vs.

J. A. BOYD.

INDICTMENT.

Section 39 P. C.

Now at this day come the plaintiff by Mr. Allan Bynon, Assistant United States Attorney, and the defendant above named in his own proper person and by Mr. Frank J. Lonergan, of counsel.

Whereupon said defendant waives motion for a new trial herein, and thereupon, on motion of plaintiff for judgment in accordance with the verdict heretofore returned by the jury herein,—

IT IS ADJUDGED that said defendant be imprisoned in the United States Penitentiary at Leavenworth, Kansas, for the term of two years, and that he stand committed until his sentence be performed or until he be discharged according to law. Whereupon, on motion of said defendant,

IT IS ORDERED that commitment herein be and the same is hereby *staid* for thirty days from this date. [16]

AND AFTERWARDS, to wit, on the 11th day of June, 1923, there was issued out of said court a commitment in words and figures, as follows, to wit: [17]

District Court of the United States, District of
Oregon.

No. C.-10,145.

For Violation of Section 39 P. C.

UNITED STATES OF AMERICA

vs.

J. A. BOYD.

COMMITMENT.

The President of the United States of America, to the Marshal of the District of Oregon, or to His Deputy; to the Keeper of Either of the Jails

in Our Said District; to the Warden of the United States Penitentiary, McNeil Island, Wash., GREETING:

WHEREAS, at the March, 1923, term of the above-entitled court J. S. Boyd was duly convicted of the crime of Violation of Section 39 of the Penal Code of the United States, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the United States of America, for which offense he hath this day been sentenced by our said Court to be imprisoned in the United States Penitentiary at Leavenworth, Kansas, or such other place of confinement as the Attorney General may designate, and to be there kept for the term of Two Years and to stand committed until this sentence be performed,—

NOW, THIS IS TO COMMAND YOU, the said Marshal or Deputy, to take and keep and safely deliver the said defendant J. A. Boyd into the custody of the Keeper or Warden in charge of said prison, forthwith.

AND THIS IS TO COMMAND YOU, the said Keeper or Warden in charge of the said prison, to receive from the said Marshal or Deputy the said defendant J. A. Boyd, convicted and sentenced as aforesaid and him keep and imprison in accordance with said sentence, or until he be otherwise discharged by law. Hereof fail not at your peril.

WITNESS the Honorable CHARLES E. WOLVERTON and the Honorable ROBERT S. BEAN, Judges of our said court, and the seal thereof affixed

[18] at Portland, in said District, this 11th day of June, 1923.

[Seal]

G. H. MARSH,
Clerk.

By E. M. Morton,
Deputy Clerk.

United States of America,
District of Oregon,—ss.

In obedience to the command of the within writ, I have this 26 day of July, 1923, committed to the Federal Prison at McNeil Island, Wash., the within named J. A. Boyd, by delivering him to the keeper thereof.

CLARENCE R. HOTCHKISS,
United States Marshal.
By FRANK SNOW,
Deputy. [19]

United States of America,
District of Oregon,—ss.

I, G. H. Marsh, Clerk of the United States District Court for the District of Oregon, do hereby certify that the foregoing copy of Judgment and Sentence, and Commitment, in cause No. C.-10,145, United States of America vs. J. A. Boyd, has been by me compared with the original thereof, and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of record and on file at my office and in my custody.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of said court at Portland, in said District, this 10th day of April, 1930.

G. H. MARSH,
Clerk.

By F. L. Buck,
Chief Deputy Clerk.

Petition and Attached Papers Indorsed: Filed in the United States District Court, Western District of Washington, Southern Division. Apr. 18, 1930. Ed. M. Lakin, Clerk. By E. Redmayne, Deputy.
[20]

ORDER TO SHOW CAUSE.

Upon reading and considering the petition of John Arthur Boyd filed herein, petitioning this Court for an order granting a writ of habeas corpus, and the Court being fully advised in the premises,—

IT IS HEREBY ORDERED that John Finch Archer, Warden of the United States Penitentiary at McNeil Island, Washington, is hereby directed in the court of the United States District Court for the Western District of Washington, Southern Division, at Tacoma, Washington, at the hour of 10 o'clock A. M. on the 26th day of April, 1930, to then and there show cause, if any there be in the premises, why a writ of habeas corpus should not issue in the above-entitled cause.

Done in chambers at Seattle this 18th day of April, 1930, at Seattle, Washington.

EDWARD E. CUSHMAN,
United States District Judge.

Received a copy of the within order this 18 day of April, 1930.

ANTHONY SAVAGE,
Attorney for Respondent.

[Indorsed]: Filed Apr. 18, 1930. [21]

DEMURRER.

Comes now Finch R. Archer, Warden of the United States Penitentiary at McNeil Island, Washington, by his attorneys, Anthony Savage and John T. McCutcheon, and demurs to the petition for a writ of habeas corpus filed in the above-entitled cause, upon the grounds and for the reason that the same does not state facts sufficient for the granting of the relief prayed for therein.

ANTHONY SAVAGE,
United States Attorney,
JOHN T. McCUTCHEON,
Assistant United States Attorney,
Attorneys for Finch R. Archer, Warden U. S. Penitentiary.

[Indorsed]: Filed Apr. 21, 1930. [22]

PETITIONER'S EXHIBIT No. 1.

In the United States District Court for the Western
District of Washington, Northern Division.

No. 40,011.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN ARTHUR BOYD,

Defendant.

CLERK'S MINUTES ON IMPOSITION OF
JUDGMENT AND SENTENCE DATED
MARCH 15, 1929.

Defendant in court for sentence, represented by
John J. Sullivan; Anthony Savage appearing on
behalf of the Govt. as counsel for Govt.

Counsel for Govt., counsel for deft., and Attorney
Thos. P. Revelle make statements to Court, the Govt.
requesting a consecutive sentence.

Sentence: McNeil Island Penitentiary fifteen
(15) months, this sentence to be served consecutively
with and in addition to the sentence heretofore im-
posed in former cause.

Filed and Adm. as Petr. Ex. 1.

United States of America,
Western District of Washington,—ss.

I, Ed. M. Lakin, Clerk of the District Court of
the United States for the Western District of Wash-
ington, do hereby certify that I have compared the

foregoing copy with the original minutes of the Clerk on imposition of sentence in the foregoing entitled cause, now on file and of record in my office at Seattle, and that the same is a true and perfect transcript of said original and of the whole thereof.

WITNESS my hand and the seal of said Court this 18th day of April, 1930.

[Seal]

ED. M. LAKIN,
Clerk.

By S. Cook,
Deputy. [23]

ORDER SUSTAINING DEMURRER AND
DENYING PETITION FOR WRIT OF
HABEAS CORPUS.

This matter having heretofore been argued and duly considered, it is hereby

ORDERED AND ADJUDGED that the said demurrer interposed by the United States of America be and the same is hereby sustained, and it is further ORDERED that the said petition for a writ of habeas corpus be and the same is hereby denied, to all of which said petitioner excepts and his exception is hereby allowed.

Done in open court this 12th day of May, 1930.

EDWARD E. CUSHMAN,
Judge.

[Indorsed]: Filed May 12, 1930. [24]

NOTICE AND PETITION FOR APPEAL.

Comes now the petitioner and gives notice that he appeals to the Circuit Court of Appeals from the order of this Court sustaining the demurrer of the United States of America and denying the writ herein, and the said petitioner respectfully prays the Court that this appeal be allowed.

H. SYLVESTER GARVIN,
FRANK R. JEFFREY,
Attorneys for Petitioner.

Received a copy of the within notice and petition this 15 day of May, 1930.

ANTHONY SAVAGE,
Attorney for U. S.

[Indorsed]: Filed May 22, 1930. [25]

ORDER ALLOWING APPEAL.

Upon considering the notice and petition of the petitioner herein, and the Court being otherwise fully informed in the premises,—

IT IS ORDERED that upon giving a cost bond in the amount of \$250 the appeal of the petitioner herein be and the same is hereby allowed and that the citation may issue.

Done at Seattle this 15th day of May, 1930.

EDWARD E. CUSHMAN,
Judge.

Received a copy of the within order this 15 day of May, 1930.

ANTHONY SAVAGE,
Attorney for U. S.

[Indorsed]: Filed May 22, 1930. [26]

CITATION ON APPEAL.

The President of the United States to Finch R. Archer, Warden of the United States Penitentiary at McNeil Island, Washington, and to His Attorneys, Anthony Savage, United States Attorney, and Joseph A. Mallery and John McCutcheon, Assistant United States Attorneys for the Western District of Washington,
GREETING:

You are hereby cited and admonished to be and appear before the United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, within thirty days from the date hereof, pursuant to an appeal filed in the Clerk's office in the above-entitled cause, and to show cause, if any there be, why the judgment and order mentioned in the said notice of appeal should not be corrected and speedy justice done the parties in that behalf.

WITNESS the Honorable EDWARD E. CUSHMAN, Judge of the above-entitled court, this 24th day of May, 1930.

EDWARD E. CUSHMAN,
District Judge.

Attest: _____,
Clerk of the District Court of the United States
for the Western District of Washington.

Received a copy of the within citation on appeal
this 15 day of May, 1930.

ANTHONY SAVAGE,
Attorney for U. S. [27]

ASSIGNMENTS OF ERROR.

Comes now the petitioner herein and in support of his petition herein for an appeal, submits that manifest errors were committed in that judgment of the court rendered on the 12th day of May, 1930, in the above-entitled cause in the following particulars:

1. That the Court erred in refusing to grant the writ of habeas corpus.

2. That the Court erred in holding that the facts stated in the said petition were insufficient to justify the issuance of the writ.

3. That the Court erred in sustaining the demurrer to said petition for writ of habeas corpus filed in the above-entitled cause.

4. That the Court erred in signing and entering the order herein sustaining the demurrer of the

United States of America to the petition for writ of habeas corpus herein, which order was heretofore signed and filed herein on May 12, 1930.

H. SYLVESTER GARVIN,
FRANK R. JEFFREY,

Attorneys for Petitioner.

Served May 10, 1930.

JOSEPH A. MALLERY,
Asst. U. S. Atty. [28]

[Indorsed]: Filed May 12, 1930. [29]

COST BOND.

KNOW ALL MEN BY THESE PRESENTS, That we, John Arthur Boyd and The Fidelity and Casualty Company of New York, a corporation, organized and existing under the laws of the State of New York, and authorized to do a surety business in Washington, are held and firmly bound unto United States of America in the full and penal sum of Two Hundred Fifty and no/100 (\$250.00) Dollars, in lawful money of the United States, to be paid to the said United States, for which payment, well and truly to be made, the said John Arthur Boyd binds himself, his heirs, executors, and administrators and the said company binds itself, its successors and assigns, jointly and severally, by these presents.

Signed, sealed and dated this 16th day of May, 1930.

The condition of this obligation is such, that WHEREAS, the above-named petitioner has appealed to the Circuit Court of Appeals for the 9th Judicial Circuit in the above-entitled court and action, and

WHEREAS, the above-named petitioner has heretofore given due and proper notice that he appeals from the said order of the said United States District Court,—

NOW, THEREFORE, if the said petitioner, John Arthur Boyd, shall pay to the United States of America, the appellee, all costs, if any there be, that may be awarded against said petitioner on the appeal or on the dismissal thereof not exceeding the sum of Two Hundred Fifty and no/100 (\$250.-00) Dollars, then this obligation to be void; otherwise to remain in full force and effect.

JOHN ARTHUR BOYD,

By H. SYLVESTER GARVIN,

His Attorney-in-fact.

THE FIDELITY AND CASUALTY COMPANY OF NEW YORK,

[Seal] By HELEN GARRISON,

Attorney.

O. K.—TOM DeWOLFE,

Asst. U. S. Atty.

Approved.

EDWARD E. CUSHMAN,

Judge. [30]

Given under my hand and official seal this 16th day of May, 1930.

[Seal] JOHN C. BOWEN,
Notary Public in and for the State of Washington,
Residing at Seattle.

[Indorsed]: Filed May 21, 1930. [31]

PRAECIPE FOR TRANSCRIPT OF RECORD.

Comes now the appellant and respectfully requests that the Clerk prepare a transcript of the following papers on appeal:

1. Petition for the writ of habeas corpus, together with all exhibits attached thereto.
2. Order to show cause issued in the above-entitled cause on the 18th day of April, 1930.
3. Demurrer of the United States of America to said petition for writ of habeas corpus herein.
4. The certified copy of the Clerk's journal entry made and entered in cause No. 40,011 in the records of the United States District Court for the Western District of Washington, Northern Division, on the 15th day of March, 1929, and offered and admitted as an exhibit in support of the petition herein.
5. The order sustaining the demurrer and denying the writ of habeas corpus entered in this cause.
6. Notice of appeal, petition for appeal, order allowing appeal, and citation on appeal.

7. Assignments of error.
8. Cost bond.

H. SYLVESTER GARVIN,
FRANK R. JEFFREY,
Attorneys for Appellant. [32]

[Indorsed]: Filed May 22, 1930. [33]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT OF RECORD.

United States of America,
Western District of Washington,—ss.

I, Ed. M. Lakin, Clerk of the United States District Court for the Western District of Washington, do hereby certify and return that the foregoing pages numbered from one to thirty-four, inclusive, constitute a full, true and correct copy and transcript of the record and proceedings in the case of In the Matter of the Application of John Arthur Boyd for a Writ of Habeas Corpus in Cause No. 8140 in said District Court, as required by praecept of counsel filed and shown herein, and as the same remain of record and on file in the office of said District Court.

I further certify that I hereto attach and transmit the original citation in said cause with acceptance of service thereon.

I further certify that the following is a full, true and correct statement of all expenses, fees and charges incurred and paid in my office on behalf

of petitioner, the appellant herein, for making the record, certificate and return to the United States Court of Appeals in the within entitled cause, to wit: Clerk's Fees (Act Feb. 11, 1925), for making

record, certificate and return, 46 fols. @	
15¢ ea.....	\$6.90
Appeal	5.00
Seal50

Attest my hand and the seal of said District Court at Tacoma, in said District, this 29th day of May, A. D. 1930.

[Seal]

ED. M. LAKIN,
Clerk.
Alice Huggins,
Deputy. [34]

[Endorsed]: No. 6160. United States Circuit Court of Appeals for the Ninth Circuit. John Arthur Boyd, Appellant, vs. Finch R. Archer, Warden of the United States Penitentiary at McNeil Island, Washington, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Western District of Washington, Southern Division.

Filed June 4, 1930.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

